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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3819

12 **FADI ZIAD KAMAL**
12517 Eucalyptus Avenue, #A
13 Hawthorne, CA 90250

A C C U S A T I O N

14 Designated Representative Certificate
No. EXC 17701

15
16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

21 2. On or about November 4, 2004, the Board issued Designated Representative
22 Certificate No. EXC 17701 to Fadi Ziad Kamal (Respondent). The Designated Representative
23 Certificate was in full force and effect at all times relevant to the charges brought herein and will
24 expire on November 1, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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STATUTORY PROVISIONS

4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

“(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee’s license was issued.

“(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

7. Section 4301 states, in pertinent part:

“The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

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“(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

“(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

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“(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. . . . The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A . . . verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing . . . setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.”

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1770 states, in pertinent part:

“For the purpose of . . . suspension, or revocation of a personal . . . license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.”

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1 **COST RECOVERY**

2 9. Section 125.3 states that the Board may request the administrative law judge to direct
3 a licentiate found to have committed a violation or violations of the licensing act to pay a sum not
4 to exceed the reasonable costs of the investigation and enforcement of the case.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Convictions for Substantially Related Crimes)**

7 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
8 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
9 Respondent has been convicted of crimes substantially related to the qualifications, functions, or
10 duties of a designated representative, as follows:

11 a. On or about July 10, 2008, after pleading nolo contendere, Respondent was convicted
12 of one misdemeanor count of violating Vehicle Code section 12500, subdivision (a) (driving a
13 vehicle without a valid driver's license) in the criminal proceeding entitled *People v. Kamal*
14 (Super. Ct. Los Angeles County, 2008, No. 8WA17529). The court ordered Respondent to pay
15 fines and restitution. The circumstances surrounding the conviction are that on or about March
16 12, 2008, Respondent drove a vehicle without a valid driver's license. He was cited for violating
17 Vehicle Code section 14601.1, subdivision (a) (driving a vehicle while driving privilege is
18 suspended or revoked with knowledge).

19 b. On or about September 1, 1998, after pleading nolo contendere, Respondent was
20 convicted of one misdemeanor count for violating Penal Code section 415, subdivision (1)
21 (fighting in a public place) in the criminal proceeding entitled *People v. Kamal* (Super. Ct. Los
22 Angeles County, 1998, No. 8CU01636). The court placed Respondent on one year of probation,
23 with terms and conditions. The circumstances surrounding the conviction are that on or about
24 July 26, 1998, Respondent fought in a public place, and he was arrested for violating Health and
25 Safety Code section 11357, subdivision (b) (possession of not more than 28.5 grams of
26 marijuana).

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1 certified, under penalty of perjury under California laws, the truth and accuracy of his exemptee
2 application. However, Respondent failed to disclose the conviction alleged in paragraph 10,
3 subparagraph (b). Complainant refers to, and by this reference incorporates, the allegations set
4 forth above in paragraph 10, subparagraph (b), inclusive, as though set forth fully. Respondent
5 also failed to disclose the following two convictions.

6 a. On or about March 23, 2001, after pleading nolo contendere, Respondent was
7 convicted of one felony count of violating Penal Code section 273.5, subdivision (a) (infliction of
8 corporal injury: spouse/cohabitant abuse) and one misdemeanor count of Penal Code section 236
9 (false imprisonment) in the criminal proceeding entitled *People v. Kamal* (Super. Ct. Los Angeles
10 County, 2001, No. 1WL01098). The court sentenced Respondent to 13 days in jail and placed
11 him on 36 months of probation, with terms and conditions. The circumstances surrounding the
12 conviction are that on or about March 15, 2001, Respondent and the victim, Respondent's
13 domestic partner, engaged in a verbal argument that became physical. Respondent pushed the
14 victim onto their bed, got on top of her and then choked her, telling her, "I'll show you psycho,
15 I'll kill you."

16 b. On or about March 23, 2001, after pleading nolo contendere, Respondent was
17 convicted of one misdemeanor count of violating Penal Code section 12020, subdivision (a)(1)
18 (possession of metal knuckles) in the criminal proceeding entitled *People v. Kamal* (Super. Ct.
19 Los Angeles County, 2001, No. 1WL10984). The court placed Respondent on 36 months of
20 probation, with terms and conditions. The circumstances surrounding the conviction are that on
21 or about January 13, 2001, Respondent was found to be in possession of metal knuckles.

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board issue a decision:

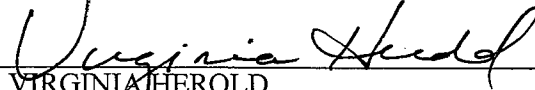
- 25 1. Revoking or suspending Designated Representative Certificate No. EXC 17701,
26 issued to Respondent;
- 27 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
28 enforcement of this case, pursuant to section 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED:

4/27/11



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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